IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.376 OF 2006
IN
SUIT NO.631 OF 2003

Ashok Kumar Dwivedi & Ors. ..Plaintiffs.

Vs.
Shanil Builders & Ors. ..Defendants.

Ms.Tamhane i/b.Mr.R.D.Survarna for the Plaintiffs.

Mr.H.V.Kode i/b.Mr.Sanjay Sawant for Defendant No.4.

Mr.Hitendra Mishra for Defendant Nos.6 to 10.

Mr.Shirshikar for Defendant No.11, B.M.C.

Mr.Vipul Kamdi for the intervenor.

CORAM : S.J. VAZIFDAR, J.
DATED : 10TH JULY, 2007

P.C. :

This Notice of Motion has been taken out by the Plaintiffs (wrongly stated to be taken out on behalf of the Defendants) for an order directing Defendant No.11, the B.M.C. to consider waiver of penalty including the water charges for regularisation of the structure referred to in the Notice of Motion and for an order directing that pending the hearing and final disposal of the suit, Defendant No.11 be directed to approve the plan for the said structure without charging any penalty.

2. It is not possible to grant the second relief in any event at this stage. The Plaintiffs are always at liberty to apply to the B.M.C. for waiver of any charges and that is entirely a matter for the B.M.C. to decide.

3. Needless to add the B.M.C. shall decide the application in accordance with law. No observations in this regard on merits are made.

4. Further the application will be without prejudice to the rights and contentions of all other parties. If the B.M.C. desires to consider the application, it will do so after hearing all the parties.

Notice of Motion is accordingly disposed of.